

Exhibit 73

Ronald Altbach – October 30, 2020

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1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF NEW YORK
3 Master docket No. 18-MD-2865 (LAK)
4 Case Nos. 18-cv-09505

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CUSTOMS AND TAX ADMINISTRATION OF
THE KINGDOM OF DENMARK (SKATTEFOR
VALTNINGEN) TAX REFUND SCHEME
LITIGATION,

REMOTE VTC VIDEOTAPED DEPOSITION UNDER ORAL

EXAMINATION OF

RONALD ALTBACH

DATE: October 30, 2020

REPORTED BY: MICHAEL FRIEDMAN, CCR

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1 in shares of foreign companies?

2 MS. RICE: Objection to form. You
3 can answer. Ron, you can answer.

4 A Yes.

5 Q When was that?

6 A I don't recall. I don't recall
7 when I learned of that strategy. You asked
8 me about strategy.

9 I don't recall when I learned of
10 that strategy.

11 Q Okay. So you had mentioned earlier
12 setting up pension plans.

13 Is there a time that you learned of
14 a strategy involving setting up those pension
15 plans?

16 A Yes.

17 Q And when was that?

18 A I believe it was in June of 2014.

19 Q And how did you become familiar
20 with that strategy?

21 A Through a very good friend named
22 John Van Merkensteijn.

23 Q And can you just describe how he
24 introduced you to it?

25 A I mean, unfortunately, my memory

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1 isn't perfect. But I believe he mentioned
2 that that there -- that there might be an
3 opportunity or that his group was -- was
4 working on transactions that involved pension
5 plans and asked if I had any pension plans.

6 And that's how I was introduced to
7 him.

8 Q You mentioned his group.

9 Were you referring to a specific
10 company or organization?

11 A No. John -- John worked with
12 others. I visited their office several times
13 about other things before that.

14 Q And who were those individuals you
15 worked with?

16 A There was a man named Jerome, whose
17 last name I don't remember. I'm sorry.

18 Q Could that be Jerome Lhote?

19 A It could easily be, I just don't
20 remember the last name.

21 Q Okay.

22 A There was a man named Rich
23 Markowitz, I believe, and another person
24 called Matt Stein or -- Mike Stein or Matt
25 Stein, I don't remember. I'm sorry.

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1 I'm not being difficult. I'm
2 trying to understand what you're asking me.

3 Q No, I understand. So when you
4 discussed setting up pension plans with
5 Mr. Van Merkensteijn, did he say if he would
6 also be setting up pension plans at the same
7 time?

8 A No, he didn't say that.

9 Q Did you discuss whether he would be
10 making any money from you setting up pension
11 plans?

12 A I just want to just -- and the
13 answer to your question is yes, he said he
14 would be making money, but not from me
15 setting up pension plans. I didn't set up
16 pension plans.

17 I'm hoping you're hearing me.

18 Q I understand.

19 So -- and the clarification you're
20 saying is that the pension plans were set up
21 on your behalf.

22 Is that accurate?

23 A That -- I think that's more
24 accurate, yes.

25 Q If there's a more accurate way,

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1 point about this letter?

2 Q Yes.

3 A The answer is yes. The answer to
4 that is yes.

5 Q Okay. How did you first interact
6 with Kaye Scholer?

7 A Okay. Again, you know, I've
8 been -- I'm sorry to do this to you, but
9 Kaye Scholer also represented the leveraged
10 buyout group that I played -- that I was in.
11 So I did a lot with Kaye Scholer in the '90s.

12 So are you talking about did I ever
13 do anything with Kaye Scholer, or are you
14 asking me specifically about these
15 transactions in the pension plans?

16 Q That's a helpful clarification.
17 Thank you.

18 I'm asking about your first
19 interaction with Kaye Scholer in connection
20 with the pension plans.

21 A The first interaction was in either
22 June or July of 2014.

23 Q How did that interaction come to
24 be?

25 A Why did I? I'm sorry. How did --

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1 Q Prior to -- what precipitated that
2 contact?

3 A John Van Merkensteijn introduced
4 me -- either introduced me or told me to call
5 a lawyer at Kaye Scholer who -- for these --
6 for the -- for these -- for these -- for
7 this -- these transactions.

8 Q What lawyer did he introduce you
9 to?

10 A As I recall -- sorry.

11 THE WITNESS: Michelle, did you say
12 something?

13 MS. RICE: No.

14 THE WITNESS: It's hard to -- I'm
15 hearing you when you don't speak.

16 A He introduced me to -- I think the
17 first introduction, John, was to Peter Wells.

18 Q Did Mr. Wells assist in setting up
19 pension plans for you?

20 A Again --

21 Q Actually, let me withdraw that.

22 Did Mr. Wells assist in setting up
23 pension plans that related to you?

24 MS. RICE: Objection. You can
25 answer.

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1 A I believe the answer to that is
2 yes.

3 Q Did you ever --

4 A Actually, I'm sorry, I'm sorry.
5 The answer to that is I don't know about the
6 setting up of the pension plans.

7 Q Did Mr. Wells assist in any aspect
8 of the strategy relating to the pension
9 plans?

10 MS. RICE: Objection. You can
11 answer.

12 A Mr. Wells -- Mr. Wells instructed
13 me as to the steps to take at every -- at
14 every stage.

15 Q At every stage of what?

16 A Of the -- of this -- of the setting
17 up of -- as you said, a setting up of these
18 transactions or my role in the transactions.

19 Q Did you ever meet with Mr. Wells?

20 A Yes.

21 Q Do you recall when?

22 A Well, I believe it was in the
23 summer of 2015.

24 Q Do you recall who was at that
25 meeting?

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1 A I think so.

2 (Whereupon a discussion was held
3 off the record.)

4 MR. MCGOEY: Let's take a
5 ten-minute break.

6 MS. RICE: We're going to be out
7 entirely and join back in. Will that
8 work, maybe? Potentially?

9 THE VIDEOGRAPHER: Let go off the
10 record real quick. The time is
11 11:20 a.m. and we're going off the
12 record.

13 (Brief recess taken.)

14 THE VIDEOGRAPHER: Stand by. The
15 time is 11:33 a.m. and we're back on
16 record.

17 Q Mr. Altbach, before we went off the
18 record, we were describing -- you were
19 describing a meeting in the summer of 2015 at
20 Kaye Scholer. You testified that you
21 remembered who was present at that meeting.

22 Can you tell us who was present?

23 A Yeah. As I recall, it was Peter
24 Wells and I, and there may have been a
25 younger person there or another lawyer there,

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1 I'm not sure. But yes.

2 Q Do you think potentially one other
3 attorney?

4 A I'm not sure, but I think so.

5 (Whereupon a discussion was held
6 off the record.)

7 Q Mr. Altbach, did you sign an
8 engagement letter with -- you, personally,
9 sign an engagement letter with Kaye Scholer
10 at any point?

11 A I don't remember doing that.

12 Q Do you know if you ever personally
13 retained Kaye Scholer?

14 MS. RICE: Objection.

15 A I don't remember doing that.

16 Q Do you know if any LLC that was
17 formed in connection with you ever retained
18 Kaye Scholer?

19 MS. RICE: Objection. You can
20 answer.

21 A I'm sorry. That, I don't remember.

22 Q And how about the pension plans
23 that were formed that related to you? Do you
24 know if they retained Kaye Scholer?

25 MS. RICE: Objection. You can

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1 And then I certainly did not pay
2 Kaye Scholer anything after that. I don't
3 know if I had before.

4 I have no idea.

5 Q Understood.

6 So it's your testimony that LLCs
7 were established before they had any
8 connection to you?

9 A I believe so.

10 Q And the pension plans that related
11 to you, do you know if they paid any fees to
12 Kaye Scholer in 2014 to 2015?

13 MS. RICE: Objection. You can
14 answer.

15 A I don't -- I don't know.

16 Q Did you have an understanding that
17 Kaye Scholer represented you personally in
18 2014/2015?

19 MS. RICE: Hold on. Ron Altbach,
20 individually, as a -- personally?

21 MR. MCGOEY: Yes. I said
22 personally.

23 MS. RICE: Okay. All right. You
24 can answer.

25 A I don't think so.

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1 Q Did you have an understanding that
2 Kaye Scholer represented the LLCs that became
3 affiliated with you?

4 A Again, I don't -- I'm not sure.

5 Q Did you have an understanding that
6 Kaye Scholer represented the pension plans
7 that were affiliated with you?

8 A Kaye Scholer, the firm? I
9 believe -- I believe so, yeah.

10 Q You believe they represented the
11 pension plans?

12 A I believe so, yes.

13 Q At the meeting that you attended in
14 the summer of 2015, that Peter Wells was
15 present for, and potentially one other
16 attorney, do you remember what was discussed?

17 A As I recall, I signed power of
18 attorney, maybe. I signed a bunch of
19 signature pages that they gave me.

20 Q Okay.

21 A I believe that happened in that
22 meeting.

23 Q Was there any discussion of why the
24 power of attorney was being signed?

25 A I don't recall that, no.

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1 Q Did you discuss the
2 establishment -- withdrawn.

3 Did you discuss LLCs at that
4 meeting?

5 A I don't remember that we did.

6 Q Did you discuss pension plans at
7 that meeting?

8 A I can only imagine that we did.
9 But I don't recall exact -- the exact subject
10 of the meeting.

11 Q Do you have any recollection of
12 discussion about any activities your pension
13 plans would be engaged in once they were set
14 up?

15 A No, I do not.

16 Q Is there anything else you remember
17 about that meeting?

18 MS. RICE: Objection. You can
19 answer.

20 A I'm not sure. So the answer is I'm
21 not sure what was discussed at that meeting.

22 Q Okay. Do you recall attending any
23 other meetings at Kaye Scholer?

24 A Can I ask you a question? You mean
25 about -- about --

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1 Q Yes, thank you. That's a good
2 clarification.

3 Do you recall any other meetings at
4 Kaye Scholer in 2014 to 2015?

5 A Yes, I do.

6 Q Okay. When were those other
7 meetings or meeting?

8 A I'm an old guy. You're asking
9 me --

10 Q To the best of your recollection?

11 A Can I just help you a little bit
12 here? Because my wife's in the hospital
13 today and I don't want this to go until
14 10~o'clock tonight.

15 I have -- there were other subjects
16 discussed with Kaye Scholer aside from these
17 pension plans at various points -- other
18 business stuff. I'm sorry.

19 But you're asking me about --
20 specifically about this pension plans, right?
21 And I don't recall the dates of the meetings.

22 Q Okay. You don't remember generally
23 when these meetings occurred?

24 And if there were meetings that did
25 not relate to the pension plans or any

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1 activities that the pension plans engaged in,
2 you know, you don't have to describe those.

3 A Okay. Thank you.

4 Q So you don't generally recall when
5 any other meetings took place?

6 A No, no, and the -- no, I don't.

7 Q Okay. Do you remember what was
8 discussed at any other meetings?

9 A Again, I can help here a little
10 bit --

11 MS. RICE: Hold on. Hold on.
12 These are meetings with lawyers. You
13 cannot help him here.

14 A The meetings took places only to
15 sign signature pages on some documents. I
16 don't remember which documents, and they
17 weren't with the senior lawyer.

18 It was usually with some -- just --
19 it was easy for me to stop by and then easier
20 for me to do that than to go to the post
21 office and mail signature pages.

22 Q You referenced a senior lawyer.

23 Who was that?

24 A Peter Wells.

25 Q Did you deal with an attorney named

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1 Michael Ben-Jacob at Kaye Scholer at any
2 point?

3 A Excuse me, but you clarified
4 earlier that you're talking about -- these
5 questions are -- only have to do with the
6 pension plans and these transactions.

7 Right?

8 Q Yes.

9 A No, I did not deal with him in
10 person.

11 Q Okay. And stepping outside of
12 matters relating to these pension plans, did
13 you deal with Michael Ben-Jacob on other
14 matters?

15 A Once, a little bit later, yes.

16 Q And that -- as far as you know,
17 that matter is unrelated to this litigation?

18 A I do know and it's completely
19 unrelated, yes.

20 Q Okay. So is it accurate to say
21 that any meeting you had with Kaye Scholer
22 attorneys in connection with this litigation,
23 there was no discussion on what activities
24 the pension plans would undertake?

25 A I think that's accurate. I believe

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1 that's accurate.

2 Q Okay. Why don't we look at a
3 document? So you should have two binders.

4 A I see them.

5 Q I promise we won't look at every
6 document in this binder.

7 If you could turn to Exhibit 961,
8 please, in the first binder?

9 MR. MCGOEY: And Mike, that's Bates
10 number RA 566.

11 (Whereupon the above mentioned was
12 marked for Identification.)

13 MS. RICE: What exhibit? I'm
14 sorry, John?

15 MR. MCGOEY: This is -- I'm sorry,
16 961.

17 MS. RICE: 961.

18 Q And just let me know when you've
19 had a chance to read that.

20 A (Witness reviewing.)

21 Okay.

22 Q So in the e-mail on the bottom of
23 this chain, you send Mr. Van Merkensteijn
24 your address, date of birth, and some other
25 personal info, and tell him that he already

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1 were affiliated with you?

2 A That's accurate.

3 Q Okay. And you understood that
4 pension plans would be formed that related to
5 those LLCs?

6 A I'm not -- again, "would be
7 formed," I'm not sure what that -- what that
8 means. But -- so I guess the answer to your
9 question is no.

10 Q Okay. Okay.
11 That pension plans would exist that
12 were affiliated with the LLCs?

13 A I believe that's correct. I
14 believe I understood that, yes.

15 Q And did you have any understanding
16 of any activities the pension plans would
17 undertake?

18 A Not that I recall.

19 Q So at the time -- I'm sorry if I
20 cut you off.

21 A No, go ahead.

22 Q So at the time you agreed to this
23 opportunity, you had no idea what the pension
24 plans would be doing.

25 Is that correct?

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1 A No idea? No idea? I may have had
2 a vague idea, so that may not be correct.

3 Q Okay. Can you describe that vague
4 idea?

5 A I can.

6 Q Please do so.

7 A The vague idea is that there would
8 be some kind of trading of securities.

9 Q Okay. Why don't we turn to
10 Exhibit 965?

11 MR. MCGOEY: Mike, that's Bates
12 MBJ 5107.

13 (Whereupon the above mentioned was
14 marked for Identification.)

15 A Okay.

16 Q You had mentioned signing a power
17 of attorney at Kaye Scholer.

18 Do you recall if this is the
19 document?

20 A I don't recall that this is the
21 document signed at Kaye Scholer. But I can
22 read and see that I signed this document, so.

23 Q Okay. The notarization is dated
24 July 23, 2014.

25 Is that -- is that the time period

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1 you think you would have attended a meeting
2 at Kaye Scholer?

3 A Again, I think I'm not a hundred
4 percent sure, but that seems to be
5 reasonable. I think it's possible, yes.

6 Q Okay. So this power of attorney
7 specifically empowers Michael Ben-Jacob as
8 your agent.

9 Is that correct?

10 A That's what it is, yes.

11 Q Okay. You testified that you did
12 not meet with Mr. Ben-Jacob in connection
13 with this opportunity.

14 Does this refresh your recollection
15 that -- actually, let me withdraw that.

16 Do you know if Mr. Ben-Jacob was
17 involved in this pension plan opportunity at
18 all?

19 A Do I know whether he was involved
20 in it?

21 Q Yes.

22 A Well, I don't know -- I'm not sure
23 how to answer that. I mean, he -- I signed a
24 power of attorney for him to act on behalf of
25 me. I guess I signed it. Interestingly

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1 answer to that is -- I believe the answer to
2 that is yes.

3 Q Okay. And what was that
4 understanding?

5 A That -- my understanding was that
6 Kaye Scholer would -- would basically handle
7 all -- all details, all documents, all
8 relevant issues on behalf of the plans.

9 Q Okay. You mentioned relevant
10 issues.

11 What would those potentially be?

12 A The setting up of bank accounts.

13 Q Anything else?

14 A That was the first relevant issue
15 because they -- that was the first relevant
16 issue.

17 Q Was that because that was the first
18 thing that needed to happen?

19 A Yes.

20 Q What was going to happen after
21 those bank accounts were set up?

22 A That, I don't actually know.

23 Q Do you remember anything that was
24 supposed to occur after the bank accounts
25 were set up?

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1 A From time to time, documents needed
2 to be signed, and they were prepared by
3 Kaye Scholer. And I was given signature
4 pages, usually separate from the documents,
5 to sign.

6 Q Whose idea was it to just provide
7 you signature pages?

8 MS. RICE: Objection.

9 A I have no idea. I don't know.

10 Q You didn't specifically request
11 that?

12 A No.

13 Q Okay. The first paragraph of this
14 document --

15 A Uh-huh.

16 Q -- it states, "Ronald Altbach" --
17 it lists your address -- "intends to, either
18 directly or indirectly, through entities
19 beneficially owned by him or established by
20 him, including one or more limited liability
21 companies and related qualified pension plans
22 through Section 401(k) of the Internal
23 Revenue Code in 1986, enter into agreements
24 to purchase stock. "

25 Did you understand that to be part

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1 question?

2 Q Yes.

3 A You're correct.

4 Q Did you become affiliated with this
5 LLC?

6 A Yes.

7 Q How so?

8 A How soon?

9 Q How so?

10 A Is that the -- is the second word
11 S-O? I'm sorry.

12 Q I'm sorry. Yes.

13 How so?

14 A I -- at some point, I became the
15 sole -- no, I'm sorry. I became a member of
16 the LLC.

17 I shouldn't say "sole" because I
18 don't know that I was. But I became a member
19 of the LLC.

20 Q Do you have an understanding of
21 what it means to be a member of an LLC?

22 A Yes, yes.

23 Q What is that?

24 MS. RICE: Objection to the extent
25 you're asking for some sort of a legal

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1 understanding. You know, in his
2 layperson understanding, he can testify.

3 A My understanding is -- my
4 understanding is it's just like being a
5 shareholder in a corporation.

6 Q How did you become a member of this
7 LLC?

8 A That's an interesting question. I
9 don't recall.

10 I don't recall the process.

11 Q Do you recall how you learned that
12 you were a member of this LLC?

13 A Again, I'm not -- I'm not trying to
14 mock you, but I -- I recall how I became a
15 member, yes.

16 Q Okay. Can you describe that?

17 A I signed -- I signed a document
18 saying that I was a member. That's how I
19 became a member, I think.

20 Q Okay. And that was a document
21 provided by Kaye Scholer?

22 A I believe so, yes.

23 Q To your knowledge, did this LLC
24 conduct any business?

25 A Are you asking before -- what time

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1 Q You didn't have any conversations
2 about access to those?

3 A Well, I didn't know they existed.

4 Q Right.

5 A So I wouldn't have asked for
6 access. But I -- I could have had -- I
7 somehow had a dream in the night and seen --
8 I'm sorry if I'm being an idiot. But no, I
9 didn't know they existed.

10 So I didn't ask for access, and
11 therefore, I didn't have the access.

12 Q Okay. Prior to the commencement of
13 this litigation, were you aware that any of
14 the five pension plans submitted claims to
15 SKAT, the plaintiff in this case?

16 A Prior to the litigation?

17 Q Yes.

18 A I don't remember the timing, but
19 I -- earlier, I told you that I received a
20 letter that I've -- that I sent -- that I
21 took to the -- or either took or sent -- I
22 think I took to the Kaye Scholer office that
23 said that I would not get a -- a refund.

24 So that's -- so I guess the answer
25 is yes, I was aware. I'm not sure -- I don't

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1 know the timing, if it was after the
2 litigation or before, but it was around that
3 time, I guess, in 2016, '17.

4 Q Okay. Yes.

5 In 2014 or 2015, were you aware of
6 your plan's submitting any claims?

7 MS. RICE: To the Danish taxing
8 authority, correct?

9 MR. MCGOEY: Yes.

10 A No, I don't believe so. I never
11 saw such a claim, as an example. Never saw
12 it.

13 Q Let me -- I'm going to ask you to
14 turn to Exhibit 1033?

15 MR. MCGOEY: Mark this as 1033.

16 (Whereupon the above mentioned was
17 marked for Identification.)

18 A Okay.

19 Q So this is one of the claims I was
20 just referring to and just want to confirm.

21 As far as you knew, you did not
22 review this prior to it being submitted to
23 the Danish government?

24 A I definitely did not.

25 Q Okay. If you could flip to the

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1 next exhibit, and to the first two exhibits
2 in the next binder, and confirm that that's
3 also the case for those two claims?

4 MR. MCGOEY: So this is Exhibits
5 1034, 1035, and 1036.

6 (Whereupon the above mentioned was
7 marked for Identification.)

8 MS. RICE: All in the same binder,
9 Ron.

10 Q They're actually -- so I think the
11 latter two are the start of the next binder.

12 A Yeah, no, I understand.

13 MS. RICE: Okay.

14 A But you're asking about basically
15 the first page of each, which is -- right?

16 Q Well, just if you -- if you think
17 you reviewed any part of these documents
18 before they were submitted to the Danish
19 government.

20 A No, I did not. I definitely did
21 not.

22 Q Did you become aware, at any point,
23 of the pension plans receiving payments from
24 the Danish government? And again, I'm asking
25 in 2014 and 2015?

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1 A No -- well, no, I didn't -- I did
2 not know that they -- the payments came from
3 the Danish government, no.

4 Q Okay. Did you become aware in 2014
5 or '15 of the plans receiving some sort of
6 payment?

7 A Yes. In 2015, not 2014.

8 Q Okay. And do you remember when in
9 2015 that was?

10 A I don't remember exactly, but I
11 think -- I think the first -- I think the
12 first such payment was around June of 2015.
13 I believe.

14 I'm not sure that I'm correctly
15 recollecting, but that's what I think
16 happened.

17 Q Okay. And how did you learn that?

18 A Well, money came into my -- into
19 the plan's bank account.

20 Q Okay. Were you -- did you receive
21 some notification from the bank or were you
22 checking the balance?

23 A I was checking the balance. Like a
24 hawk.

25 Q Okay. So speaking of banking

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1 accounts, did you, at any point, open up bank
2 accounts for the LLCs?

3 MS. RICE: Objection.

4 Q You can answer.

5 MS. RICE: You can answer, yeah.

6 A So each of the five LLCs opened a
7 bank account, yes.

8 Q Okay. When you used -- I
9 noticed --

10 MS. RICE: Excuse me.

11 MR. MCGOEY: Bless you.

12 Q I notice you used the passive voice
13 there.

14 So do you know who opened up those
15 bank accounts?

16 A Well, the bank account was
17 opened -- the LLC opened the bank account. I
18 was the manager of the LLCs, and the -- so
19 the answer is, that's the answer.

20 Q Okay. Did you direct the opening
21 of those accounts?

22 A Kaye Scholer directed the opening
23 of those accounts and identified the banker
24 who would open the accounts.

25 Q Were you aware of their being

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1 opened at that time?

2 A Sure, because I -- yes, the answer
3 is yes. Because they had to be opened with
4 money and I had to put the hundred dollars in
5 each account.

6 Q Okay.

7 A On behalf of each of the -- of the
8 LLCs.

9 Q Is it fair to say that you
10 authorized the opening of those accounts?

11 A Yeah, I think that would be fair.

12 Q Okay. Why don't we -- let's turn
13 to Exhibit 1058.

14 MR. MCGOEY: Mark this as 1058.

15 THE WITNESS: 1058?

16 MR. MCGOEY: Yes.

17 MS. RICE: So the second binder.

18 MR. MCGOEY: Correct.

19 (Whereupon the above mentioned was
20 marked for Identification.)

21 MR. MCGOEY: And Mike, that's
22 Bates RA 552.

23 A Okay. I got it.

24 Q So this is an e-mail exchange
25 between you and Mr. Van Merkensteijn from

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1 the LLC bank accounts on behalf of the LLCs.

2 Q Did you ultimately -- let me
3 withdraw that.

4 Were bank accounts for the LLCs
5 ultimately opened at Wells Fargo?

6 A Yes.

7 Q Were bank accounts for the plans
8 ultimately opened at Wells Fargo?

9 A Yes.

10 Q Did you also authorize the opening
11 of those accounts?

12 A Yes, as trustee.

13 Q Can you turn to -- actually, I
14 apologize. This won't happen often, but we
15 have to go back to the first binder briefly.

16 A Okay.

17 Q Exhibit 596, which has been
18 previously admitted, previously marked?

19 A 596?

20 Q Yes.

21 A Okay.

22 Q So the bottom e-mail in this chain
23 is from Mr. Van Merkensteijn to Richard
24 Markowitz, Robert Klugman, and it looks like
25 also he cc'd himself.